

## EFFECTIVE DATE

Pub. L. 92-540, title VI, §603, Oct. 24, 1972, 86 Stat. 1099, provided that:

“(a) The prepayment provisions of subsection (e) of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on November 1, 1972.

“(b) The advance payment provisions of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on August 1, 1973, or at such time prior thereto as the Administrator of Veterans' Affairs shall specify in a certification filed with the Committees on Veterans' Affairs of the Congress.”

## STUDY OF TUITION ASSISTANCE ALLOWANCE PROGRAM ABUSES

Pub. L. 93-508, title I, §105, Dec. 3, 1974, 88 Stat. 1581, authorized the Administrator to study the potential administrative difficulties and abuses that would arise if some form of variable tuition assistance allowance program were enacted after consideration of past difficulties and abuses which arose after the Second World War and such difficulties and abuses as were being experienced by the Veterans' Administration in managing certain current programs, and to report to the Congress and the President his findings and recommendations for legislative and administrative action no later than one year after Dec. 3, 1974.

## EX. ORD. NO. 12020. PAYMENT OF BENEFITS WHEN SCHOOLS ARE TEMPORARILY CLOSED TO CONSERVE ENERGY

Ex. Ord. No. 12020, Nov. 8, 1977, 42 F.R. 58509, provided: By virtue of the authority vested in me by clause (A) of Section 1780(a) [now 3680(a)] of Title 38 of the United States Code, and as President of the United States of America, in order to establish a national policy in regard to payment of educational benefits to veterans and their dependents during periods in which schools are closed to conserve energy, it is hereby ordered as follows:

SECTION 1. Whenever an educational institution submits evidence which satisfies the Administrator of Veterans' Affairs that energy consumption will be abnormally high during the winter months or that available energy supplies will be inadequate to meet the needs of the school, and that, in the interest of energy conservation, the institution plans to close between semesters or terms for a period not to exceed 45 days, the Administrator may continue to pay monthly educational assistance benefits to veterans and eligible persons enrolled in such schools. Such authority may be exercised only once during any 12-month period with respect to any educational institution.

SEC. 2. The Administrator shall advise veterans and other eligible persons of the effect of accepting educational assistance benefits under the provisions of Section 1 of this Order on their period of entitlement.

JIMMY CARTER.

**§ 3680A. Disapproval of enrollment in certain courses**

(a) The Secretary shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course

will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

(4) any independent study program except an accredited independent study program (including open circuit television) leading (A) to a standard college degree, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning.

(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

(B) in a farm cooperative training course; or

(C) in a course described in subsection (g).

(e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—

(1) the educational institution has been operating for less than two years;

(2) the course is offered at a branch of the educational institution and the branch has been operating for less than two years; or

(3) following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

(f) The Secretary may not approve the enrollment of an eligible veteran in a course as a part of a program of education offered by an educational institution if the course is provided under contract by another educational institution or entity and—

(1) the Secretary would be barred under subsection (e) from approving the enrollment of an eligible veteran in the course of the educational institution or entity providing the course under contract; or

(2) the educational institution or entity providing the course under contract has not obtained approval for the course under this chapter.

(g) Notwithstanding subsections (e) and (f)(1), the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Homeland Security and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

(Added Pub. L. 102-568, title III, §313(a)(2), Oct. 29, 1992, 106 Stat. 4331; amended Pub. L. 104-275, title I, §§103(a)(2), (b), 104(c), Oct. 9, 1996, 110 Stat. 3326, 3327; Pub. L. 105-114, title IV, §401(d), (e), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105-368, title X, §1005(b)(9), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107-103, title I, §111(a), Dec. 27, 2001, 115 Stat. 986; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315.)

#### AMENDMENTS

2002—Subsec. (g). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(4). Pub. L. 107-103 inserted “(A)” after “leading” and “, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning” before period at end.

1998—Subsec. (d)(2)(C). Pub. L. 105-368 struck out “section” before “subsection (g)”.

1997—Subsec. (a)(4). Pub. L. 105-114, §401(d), inserted “(including open circuit television)” before “leading to a standard”.

Subsec. (g). Pub. L. 105-114, §401(e), substituted “subsections (e) and (f)(1)” for “subsections (e) and (f)”.

1996—Subsec. (c). Pub. L. 104-275, §104(c), substituted “radio.” for “radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.”

Subsec. (d)(2)(C). Pub. L. 104-275, §103(a)(2), substituted “subsection (g)” for “3689(b)(6) of this title”.

Subsecs. (e) to (g). Pub. L. 104-275, §103(b), added subsecs. (e) to (g).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-103, title I, §111(b), Dec. 27, 2001, 115 Stat. 987, provided that: “The amendments made by subsection (a) [amending this section] shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act [Dec. 27, 2001].”

#### SAVINGS PROVISION

Section not applicable to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on Oct. 29, 1992, for as long as such person is continuously thereafter so enrolled and meets requirements of eligibility for such assistance, see section 313(b) of Pub. L. 102-568, set out as a note under section 16136 of Title 10, Armed Forces.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 3681. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 30, 34, 35, or 36 of this title or 106 or 107 of title 10, or subsistence allowance granted under chapter 31 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service; or (2) who is attending a course of education or training paid for under chapter 41 of title 5.

(b) No person may receive benefits concurrently under two or more of the provisions of law listed below:

(1) Chapters 30, 31, 32, 34, 35, and 36 of this title.

(2) Chapters 106 and 107 and section 510 of title 10.

(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note).

(4) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note).

(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).

(Added Pub. L. 89-358, §3(b), Mar. 3, 1966, 80 Stat. 21, §1781; amended Pub. L. 91-219, title II, §213(1), Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title IV, §403(8), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94-502, title V, §513(a)(13), Oct. 15, 1976, 90 Stat. 2403; Pub. L. 96-466, title I, §102, title VIII, §801(e), Oct. 17, 1980, 94 Stat. 2187, 2216; Pub. L. 97-295, §4(53), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98-223, title II, §203(c)(1), Mar. 2, 1984, 98 Stat. 41; Pub. L. 98-525, title VII, §703(c), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 99-576, title III, §§317, 321(9), Oct. 28,